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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,620	09/30/2003	William S. Lightbody	0001-DIV	6354

7590 09/07/2005

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PEPPER PIKE, OH 44124

EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,620

Applicant(s)

LIGHTBODY, WILLIAM S.

Examiner

Glenn Richman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6-20-05

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

Claims 19-28, 45-48 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/20/05.

Newly submitted claims 54-59 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: "said input generator having an electric output upon the input of force on the input shaft"

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 54-59 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 9-15, 17, 29-31, 34, 35, 37-44, 49-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Spagnuolo et al.

Spagnuolo et al disclose an altering mechanism to vary the preset weight resistance (col., lines 43-63), and a control box means to automatically selectively alter said altering mechanism in order to vary the effective resistance to retain the exercise within the ascertainable parameter (col., lines 43-63).

Spagnuolo et al disclose the exercise utilizes repetitions each having a time per repetition and characterized in that the ascertainable parameter is time per repetition (col. 3, lines 3-7), the addition of means to impart an inertial quality to the selectably variable resistance (fig. 7a), means to separate the selectably variable resistance from direct mechanical connection to the exerciser (fig. 7a), said automatic adjustment means includes an initial range adjustment sensor (col. 6, lines 22-42 (92, 94, 96)), a memory area associated therewith and said automatic adjustment means utilizes said memory area (90), a limited number of presettable weight resistances (fig. 7a), a single presettable weight resistance (fig. 7a), bidirectional forces and characterized in that said means is not symmetric in respect to the bidirectional forces (fig. 7a), said means substantially eliminates the resistance in one of the bidirectional forces (106), said modifying means modifies the resistance based upon the time of initial repetition and thereafter retains the resistance at a constant level (col. 6, lines 42-68), said modifying means begins with a resistance too high for the particular exerciser (col. 6, lines 42-68), addition of the previous resistance for a particular exerciser being held in memory and in that said modifying means utilizes said previous resistance to begin the resistance for that particular exerciser (col. 6, lines 42-68), said memory is a computer (90).

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spagnuolo et al in view of Flavell.

Spagnuolo et al do not disclose said automatic adjustment means includes a generator.

Flavell discloses an automatic adjustment means includes a generator (claim 9).

It would have been obvious to use Flavell's generator with Spagnuolo et al's adjustment means, as it is well known in the art as taught by Flavell, to use a generator for imparting a variable resistance to an exerciser.

Claims 8, 17, 28, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spagnuolo et al in view of Futakami.

Spagnuolo et al do not disclose said memory area is on a card.

Futakami discloses a memory area is on a card (col. 6, lines 45-58).

It would have been obvious to use Futakami's memory card with Spagnuolo et al's, memory, as it is well known in the art to use a memory card, as taught by Futakami, for storing data of an exerciser.


Futakami further discloses sensor means to identify the particular exerciser (116).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clark et al disclose a variable resistance exercise apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Glenn Richman
Primary Examiner
Art Unit 3764